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EXAMINER
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ART UNIT	PAPER NUMBER
2756	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

☒ Responsive to communication(s) filed on *Nov 29, 1999* _____ .

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire ____3____ month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) *1-8, 10-21, and 23-32* _____ is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) *1-8, 10-21, and 23-30* _____ is/are rejected.

☒ Claim(s) *31 and 32* _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number) _____ .

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____ .

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

DETAILED ACTION

Introduction

1.   This office action is in response to Amendment B filed Nov 29, 1999. Amended claims

1,10,19,29 and new claims 31-31 are pending. Claims 9 and 22 are canceled. The objections and

rejections cited are as state below

Response to Amendment

2.   Applicant's amendment filed Nov 29, 1999 have been fully considered but they are moot in

view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
such that the subject matter as a whole would have been obvious at the time the invention was made to a person
having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the
examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions
covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37
CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later
invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103© and potential 35
U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-8,10-21,23-32 are rejected under 35 U.S.C. § 103 as being unpatentable over

Heath et al [5,790,802] in view of LaPorta et al [5,959,543]

As per claim 1, Heath et al disclose *A method of transmitting a data segment in a*

stream using a write module of the type such as a launcher program download or writes data

representation of the catalog file [col 5 line 41], which at least includes the updated list of

components and version numbers on the client, for a comparison in a subsequent version check

[col 4 line 49]...*which implements a selected one of a plurality of versions of a streaming*

protocol such as the file transfer protocol or the hypertext transfer protocol [col 4 line 64],

outputting a first stream of data according to a first version of the streaming protocol or

file transfer protocol such as the launcher at engages the server to download the required

components for a proper update as defined in the catalog file [col 5 line 41] wherein the catalog

file is downloadable from the server to a client using standard network transfer protocol, such as

the file transfer protocol or the hypertext transfer protocol as first version protocol [col 4 line 62]

or previous file [col 6 line 45]; and

sequentially appending additional streams of data to the first stream of data according to

each subsequent version of the streaming protocol up to and including the selected version, if the

selected version of the streaming protocol is not the first version of the streaming protocol such

as plug in module or add-on module [col 5 line 61-67;col 7 line 65-col 8 line 12].

However Heath et al do not detail *delimiting the data segment in the data stream begin*

and end tags. The skilled artisan would have looked to the network communication art and would

have found the LaPorta teaching of controlling tags of a network communication control art.

LaPorta taught the control information on client/server system includes at least one pair of control

tags delimiting a beginning and an end of a portion of the message [LaPorta col 23 line 57].

Therefore, it would have been obvious to one having ordinary skill in the art at the time the

invention was made to incorporate the control tags as taught by LaPorta into the Heath system in

order to enhance the process control and update the version of streaming protocol. By this rationale claim 1 is rejected.

As per claim 2, Heath-LaPorta disclose *receiving the first stream of data;*

if the second selected version is earlier than the first selected version, receiving each additional stream data according to each subsequent version of the streaming protocol up to and including the second selected-version, and disregarding any remaining data in the data segment [Heath col 8 lines 65-col 9 lines 7];

if the second selected version is equal to or later than the first selected version, sequentially receiving the additional streams of data according to each subsequent version of the streaming protocol up to and including the second selected version [Heath col 6 line 46-57];

testing or analysis prior to receiving each additional stream of data, whether an end of the data segment has been detected [Heath col 6 line 34-36], *and if so, terminating reception of the data segment prior to receiving the additional stream of data according to the second selected version* [Heath col 7 line 29] By this rationale claim 2 is rejected.

As per claims 3,16 and 20, Heath-LaPorta et al disclose *the data segment is an object* or module [col 8 line 8]. By this rationale claims 3,16 and 20 are rejected.

As per claim 4, Heath-LaPorta et al disclose *the data segment includes all of the data necessary to reconstruct the object* such as a version identification, code or data size and the network address [Heath col 5 line 2-3]; *wherein the data stream is serial* as inherent feature of data communication on computer system. By this rationale claim 4 is rejected.

As per claims 5,17 and 21, Heath-LaPorta et al taught *the testing or examining includes the step of initializing object data that is not received from the data stream to a default value* such as install the components on the client where the components should be stored [Heath col 6 line 34-36].By this rationale claims 5,17 and 21 are rejected

As per claims 6 and 18, Heath-LaPorta et al disclose *the transmitting an object type or version type for the data segment; and receiving the object type* as an inherent feature of a catalog of components with the version identifications [Heath col 8 line 55], *including the steps of allocating and initializing an object when receiving the data segment based upon the object type* as inherent feature of computer processor [Heath col 4 line 38]. By this rationale claims 6 and 18 are rejected.

As per claims 7-8, Heath-LaPorta et al taught the write module or read modules reside on same or different computer such as client and server [Heath col 2 line 16-20] as a design choice . By this rational claims 7-8 are rejected.

As per claim 10, Heath-LaPorta disclose *no additional tags are embedded in the data segment between the begin and tags* as an inherent feature of the control tag [LaPorta col 23 line 55]. By this rationale claim 10 is rejected

As per claim 11, Heath-LaPorta disclose determining *whether the data segment is stored in a current context for the data stream; if so, transmitting an alias tag in lieu of segment; and not, storing the data segment in the current context* such as if the version number is correct or incorrect [Heath col 6 line 46-57]. By this rationale claim 11 is rejected

As per claim 12, Heath-LaPorta disclose *the data is a non-random access data stream* or persistent cache [Heath col 5 line 47]. By this rationale claim 12 is rejected

As per claims 13 ,19,24,28 and 29 contain the similar limitation of claim 1. By this rationale claims 13,19,24,28 and 29 are rejected.

As per claim 30 contains the similar limitation of claim 2 . By this rationale claim 30 is rejected.

Allowable Subject Matter

4.   Claims 31 and 32 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5.   All claims are rejected.

6.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thong Vu, whose telephone number is (703)-305-4643. The examiner can normally be reached on Monday-Thursday from 6:30AM- 4:00PM. The examiner can also be reached on alternate Fridays during the same hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Frank Asta*, can be reached on *(703) 305-3817 or via e-mail addressed to [Frank.Asta@uspto.gov]*. The fax number for this Group is (703) 308-6606.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [thong.vu@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-3900.

Thong Vu
Feb 14, 2000

FRANK J. ASTA
SUPERVISORY PATENT EXAMINER
GROUP 2700